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(3) Submit a written request for an informal conference to discuss the matter with an agency attorney and submit relevant information or documents.

(4) Request that an order be issued in accordance with the notice of proposed assessment so that the individual charged may appeal to the National Transportation Safety Board.

(e) *Failure to respond to notice of proposed assessment.* An order of assessment may be issued if the individual charged with a violation fails to respond to the notice of proposed assessment within 15 days after receipt of that notice.

(f) *Order of assessment.* An order of assessment, which assesses a civil penalty, may be issued for a violation described in paragraph (a) of this section after notice and an opportunity to answer any charges and be heard as to why such order should not be issued.

(g) *Appeal.* Any individual who receives an order of assessment issued under this section may appeal the order to the National Transportation Safety Board. The appeal stays the effectiveness of the Administrator's order.

(h) *Exhaustion of administrative remedies.* An individual substantially affected by an order of the NTSB or the Administrator may petition for review only of a final decision and order of the National Transportation Safety Board to a court of appeals of the United States for the circuit in which the individual charged resides or has his or her principal place of business or the United States Court of Appeals for the District of Columbia Circuit, under 49 U.S.C. 46110 and 46301(d)(6). Neither an order of assessment that has not been appealed to the National Transportation Board, nor an order compromising a civil penalty action, may be appealed under those sections.

(i) *Compromise.* The FAA may compromise any civil penalty action initiated under this section, in accordance with 49 U.S.C. 46301(f).

(1) An agency attorney may compromise any civil penalty action where an individual charged with a violation agrees to pay a civil penalty and the FAA agrees to make no finding of violation. Under such agreement, a com-

promise order is issued following the payment of the agreed-on amount or the signing of a promissory note. The compromise order states the following:

(i) The individual has paid a civil penalty or has signed a promissory note providing for installment payments;

(ii) The FAA makes no finding of violation; and

(iii) The compromise order will not be used as evidence of a prior violation in any subsequent civil penalty proceeding or certificate action proceeding.

(2) An agency attorney may compromise the amount of any civil penalty proposed or assessed in an order.

(j) *Payment.* (1) An individual must pay a civil penalty by:

(i) Sending a certified check or money order, payable to the Federal Aviation Administration, to the FAA office identified in the order of assessment, or

(ii) Making an electronic funds transfer according to the directions specified in the order of assessment.

(2) The civil penalty must be paid within 30 days after service of the order of assessment, unless an appeal is filed with the National Transportation Safety Board. The civil penalty must be paid within 30 days after a final order of the Board or the Court of Appeals affirms the order of assessment in whole or in part.

(k) *Collection of civil penalties.* If an individual does not pay a civil penalty imposed by an order of assessment or other final order, the Administrator may take action provided under the law to collect the penalty.

[Amdt. 13-32; 69 FR 59497, Oct. 4, 2004]

§ 13.19 Certificate action.

(a) Under section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429), the Administrator may reinspect any civil aircraft, aircraft engine, propeller, appliance, air navigation facility, or air agency, and may re-examine any civil airman. Under section 501(e) of the FA Act, any Certificate of Aircraft Registration may be suspended or revoked by the Administrator for any cause that renders the aircraft ineligible for registration.

(b) If, as a result of such a reinspection re-examination, or other investigation made by the Administrator under section 609 of the FA Act, the Administrator determines that the public interest and safety in air commerce requires it, the Administrator may issue an order amending, suspending, or revoking, all or part of any type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate, or air agency certificate. This authority may be exercised for remedial purposes in cases involving the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) or regulations issued under that Act. This authority is also exercised by the Chief Counsel, the Assistant Chief Counsel, Enforcement, the Assistant Chief Counsel, Regulations, the Assistant Chief Counsel, Europe, Africa, and Middle East Area Office, each Regional Counsel, and the Aeronautical Center Counsel. If the Administrator finds that any aircraft registered under Part 47 of this chapter is ineligible for registration or if the holder of a Certificate of Aircraft Registration has refused or failed to submit AC Form 8050-73, as required by §47.51 of this chapter, the Administrator issues an order suspending or revoking that certificate. This authority as to aircraft found ineligible for registration is also exercised by each Regional Counsel, the Aeronautical Center Counsel, and the Assistant Chief Counsel, Europe, Africa, and Middle East Area Office.

(c) Before issuing an order under paragraph (b) of this section, the Chief Counsel, the Assistant Chief Counsel, Enforcement, the Assistant Chief Counsel, Regulations, the Assistant Chief Counsel, Europe, Africa, and Middle East Area Office, each Regional Counsel, or the Aeronautical Center Counsel advises the certificate holder of the charges or other reasons upon which the Administrator bases the proposed action and, except in an emergency, allows the holder to answer any charges and to be heard as to why the certificate should not be amended, suspended, or revoked. The holder may, by checking the appropriate box on the form that is sent to the holder with the

notice of proposed certificate action, elect to—

(1) Admit the charges and surrender his or her certificate;

(2) Answer the charges in writing;

(3) Request that an order be issued in accordance with the notice of proposed certificate action so that the certificate holder may appeal to the National Transportation Safety Board, if the charges concern a matter under Title VI of the FA Act;

(4) Request an opportunity to be heard in an informal conference with the FAA counsel; or

(5) Request a hearing in accordance with Subpart D of this part if the charges concern a matter under Title V of the FA Act.

Except as provided in §13.35(b), unless the certificate holder returns the form and, where required, an answer or motion, with a postmark of not later than 15 days after the date of receipt of the notice, the order of the Administrator is issued as proposed. If the certificate holder has requested an informal conference with the FAA counsel and the charges concern a matter under Title V of the FA Act, the holder may after that conference also request a formal hearing in writing with a postmark of not later than 10 days after the close of the conference. After considering any information submitted by the certificate holder, the Chief Counsel, the Assistant Chief Counsel for Regulations and Enforcement, the Regional Counsel concerned, or the Aeronautical Center Counsel (as to matters under Title V of the FA Act) issues the order of the Administrator, except that if the holder has made a valid request for a formal hearing on a matter under Title V of the FA Act initially or after an informal conference, Subpart D of this part governs further proceedings.

(d) Any person whose certificate is affected by an order issued under this section may appeal to the National Transportation Safety Board. If the certificate holder files an appeal with the Board, the Administrator's order is stayed unless the Administrator advises the Board that an emergency exists and safety in air commerce requires that the order become effective immediately. If the Board is so advised, the order remains effective and the

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Board shall finally dispose of the appeal within 60 days after the date of the advice. This paragraph does not apply to any person whose Certificate of Aircraft Registration is affected by an order issued under this section.

[Doc. No. 13–14, 44 FR 63723, Nov. 5, 1979, as amended by Amdt. 13–15, 45 FR 20773, Mar. 31, 1980; Amdt. 13–19, 54 FR 39290, Sept. 25, 1989; Amdt. 13–29, 62 FR 46865, Sept. 4, 1997]

§ 13.20 Orders of compliance, cease and desist orders, orders of denial, and other orders.

(a) This section applies to orders of compliance, cease and desist orders, orders of denial, and other orders issued by the Administrator to carry out the provisions of the Federal Aviation Act of 1958, as amended, the Hazardous Materials Transportation Act, the Airport and Airway Development Act of 1970, and the Airport and Airway Improvement Act of 1982, or the Airport and Airway Improvement Act of 1982 as amended by the Airport and Airway Safety and Capacity Expansion Act of 1987. This section does not apply to orders issued pursuant to section 602 or section 609 of the Federal Aviation Act of 1958, as amended.

(b) Unless the Administrator determines that an emergency exists and safety in air commerce requires the immediate issuance of an order under this section, the person subject to the order shall be provided with notice prior to issuance.

(c) Within 30 days after service of the notice, the person subject to the order may reply in writing or request a hearing in accordance with Subpart D of this part.

(d) If a reply is filed, as to any charges not dismissed or not subject to a consent order, the person subject to the order may, within 10 days after receipt of notice that the remaining charges are not dismissed, request a hearing in accordance with Subpart D of this part.

(e) Failure to request a hearing within the period provided in paragraphs (c) or (d) of this section—

(1) Constitutes a waiver of the right to appeal and the right to a hearing, and

(2) Authorizes the official who issued the notice to find the facts to be as al-

leged in the notice, or as modified as the official may determine necessary based on any written response, and to issue an appropriate order, without further notice or proceedings.

(f) If a hearing is requested in accordance with paragraph (c) or (d) of this section, the procedure of Subpart D of this part applies. At the close of the hearing, the Hearing Officer, on the record or subsequently in writing, shall set forth findings and conclusions and the reasons therefor, and either—

(1) Dismiss the notice; or

(2) Issue an order.

(g) Any party to the hearing may appeal from the order of the Hearing Officer by filing a notice of appeal with the Administrator within 20 days after the date of issuance of the order.

(h) If a notice of appeal is not filed from the order issued by a Hearing Officer, such order is the final agency order.

(i) Any person filing an appeal authorized by paragraph (g) of this section shall file an appeal brief with the Administrator within 40 days after the date of issuance of the order, and serve a copy on the other party. A reply brief must be filed within 20 days after service of the appeal brief and a copy served on the appellant.

(j) On appeal the Administrator reviews the available record of the proceeding, and issues an order dismissing, reversing, modifying or affirming the order. The Administrator's order includes the reasons for the Administrator's action.

(k) For good cause shown, requests for extensions of time to file any document under this section may be granted by—

(1) The official who issued the order, if the request is filed prior to the designation of a Hearing Officer; or

(2) The Hearing Officer, if the request is filed prior to the filing of a notice of appeal; or

(3) The Administrator, if the request is filed after the filing of a notice of appeal.

(l) Except in the case of an appeal from the decision of a Hearing Officer, the authority of the Administrator under this section is also exercised by the Chief Counsel, Deputy Chief Counsel, each Assistant Chief Counsel, each